



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,063	08/23/2001	Michael R. Dupelle	04644-101001	1672

7590 10/23/2002

G. ROGER LEE
Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

EXAMINER

DROESCH, KRISTEN L

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/938,063	DUPELLE ET AL.	
Examiner	Art Unit	
Kristen L Drosch	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 17 January 2002.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 23 August 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

4) Interview Summary (PTO-413) Paper No(s). _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: SKIN APPLIED ELECTRODE PADS HAVING U-SHAPED RELEASE SHEETS

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 25 recites the limitation "release paper" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gliner et al. (6,178,357) in view of Kay (5,713,842). Gliner et al. shows a defibrillator comprising a defibrillator control box; a pair of electrode pads (20) leads (16) connecting the electrode pads to

the defibrillator control box; each electrode pad comprises an electrode; an adhesive configured to adhere the electrode to a patients skin and a release sheet (Col. 4, lines 1-36). Although Gliner et al. fails to show a first portion of the release sheet covering the adhesive and a second portion of the release sheet extending from the first portion and being folded so that the release sheet can be peeled away from the adhesive by pulling the second portion in a direction substantially parallel to the plane of the electrode pad, attention is directed to Kay who shows an adhesive pad with a release sheet having this configuration (Figs. 3, 8). Kay teaches the release sheet configuration provides a method of wrinkle free placement and application of the adhesive pad to the skin. Kay further teaches that when wrinkles are formed during application to the skin, it is virtually impossible to achieve an occlusive seal (Col. 1, lines 53-57, Col. 2, line 65-67). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize the release sheet configuration of Kay with the electrode pad of Gliner et al. in order to provide a method of wrinkle free placement and application of the adhesive pads, thus better enabling the achievement of an occlusive seal.

With respect to claims 2, 11, and 22, Gliner et al. shows the electrode pad further comprises a conductive gel (32).

Regarding claims 3-4, 11-12, and 24, Gliner et al. shows a non-conductive adhesive surrounding the gel (Col. 4, lines 32-36).

With respect to claims 5, 15, and 19, Kay shows the release sheet is folded in a substantially U-shaped configuration (Figs. 3, 8).

Regarding claims 6 and 20, Kay shows an edge of the second portion of the release sheet extends beyond an adjacent edge of the pad, providing a pull-tab (26, 79) that can be grasped during removal of the release sheet (Figs. 3, 8).

With respect to claim 7, Kay shows the release sheet a release coated paper (Col. 3, lines 33-40).

Regarding to claims 8-9, Gliner et al shows a cable (16) and a connector (Fig. 7).

With respect to claims 10, and 21, Kay shows the release sheet is configured so that as the release sheet is peeled away, a fold about which the release sheet is folded travels in the direction in which the second portion is pulled (Col. 6, lines 5-11).

Regarding claim17 Gliner et al shows the defibrillator comprises an automatic external defibrillator.

With respect to claim 18, Gliner et al. shows the electrode pads are integrally connected forming an electrode pad assembly (12)

Regarding claim 21, Kay shows the release sheet is configured so that as the release sheet is peeled away, a fold about which the release sheet is folded travels in the direction in which the second portion is pulled (Col. 6, lines 5-11).

With respect to claim 25, Kay shows the method of positioning the pad on the patient's skin with the release sheet facing the skin in contact with or closely adjacent the skin; removing the release sheet to expose the adhesive portion without lifting the pad from the patient's skin; and adhering the adhesive portion to the patient's skin (Figs. 4-6, Col. 9, lines 19-60).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bishay (6,272,385) shows a pair of adhesive electrode pads with release sheets. Smiths Industries (EP 0434258) shows an adhesive release sheet with a U-shaped configuration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen L Drolesch whose telephone number is 703-605-1185. The examiner can normally be reached on M-F, 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angie Sykes can be reached on 703-308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Kristen Drolesch

kld
October 19, 2002

Kennedy Schaezle
KENNEDY SCHAEZLE
PRIMARY EXAMINER
10-20-02